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U.S. BANKRUPTCY CT.  
SO. DIST. OF CALIF

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

In re:

SARA NEWSOME BURNS,

Debtor.

CASE NO. 99-00811-B1

**MEMORANDUM OF  
POINTS & AUTHORITIES  
FOR APPLICATION FOR  
ORDER AUTHORIZING  
PAYMENT TO TRUSTEE**

Date: N/A

Time: N/A

Ctrm: 4

Hon. Peter Bowie

Creditor Bradley Proulx hereby submits the following memorandum of points and authorities in support of his ex parte application for an order authorizing payment to the Chapter 13 Trustee on monies owed to Debtor.

**FACTUAL BACKGROUND**

Creditor Bradley Proulx obtained a Judgment in State Court for \$231,462.61 on October 30, 1998, against Debtor SARA NEWSOME BURNS. See Exhibit "1." The Judgment was based upon Plaintiff BURN's refusal and/or failure to pay Proulx, her investigator, for services which he provided and which directly resulted in her recovering \$580,000 in a federal court action. Subsequently, Creditor obtained a Turnover Order for the final portion of settlement monies due to Debtor. See Exhibit "2." Finally, he filed a Lien on the Federal Court action requiring payment be made to him, not Debtor. See Exhibit "3."

1 Debtor admits she already received over \$400,000 of \$580,000 owed on a  
2 settlement in Federal Court. Creditor confirmed from the United States of America  
3 that a final payment of over \$150,000 to \$200,000 was being wire transferred to  
4 Debtor, but was frozen at the last hour based upon Creditor's Lien and ex parte  
5 application in District Court for payment. See Declaration of Bryan D. Sampson.

6 In response to the foregoing, Debtor Burns filed this Chapter 13 action. See  
7 Court records. Unfortunately, she appears to have overlooked her "receivable" of  
8 between \$150,000 to \$200,000 from the government. Her petition lists less than  
9 \$50,000 in assets. See Exhibit "4" and Court Records.

10 Based upon the foregoing, Creditor Proulx requests this Court issue an  
11 Order directing the government to pay the Chapter 13 Trustee and to relieve the  
12 government of liability.

### 13 LEGAL ARGUMENT

14 As the Court is aware, Debtor's Chapter 13 petition invokes the powers of  
15 this court and the Chapter 13 Trustee to recover assets for the estate. See 11 USC  
16 §§541, 542 & 1306.

17 BURNS received over \$400,000 from a federal court lawsuit. See attached  
18 Declaration of Bryan D. Sampson. She expects to receive another \$150,000 to  
19 \$200,000. However, she forgot to include this "receivable" in her bankruptcy estate.  
20 See Exhibit "4." Thus, Creditor requests an order allowing the government to pay  
21 the Chapter 13 Trustee to avoid dissipation of funds.


### 22 CONCLUSION

23 Based upon the foregoing, Creditor Proulx respectfully requests this Court  
24 issue the attached, proposed Order.

25 DATED: February 1, 1999

**SAMPSON & ASSOCIATES**

26  
27 By:

  
Bryan D. Sampson  
Attorney for Creditor Proulx